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EXAMINER

NAJARIAN, LENA

ART UNIT PAPER NUMBER

3626

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/745,847

Applicant(s)

MAHMUD ET AL.

Examiner

Lena Najarian

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20070223.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8 and 26-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 8 and 26-27 recite the limitations for which there is no antecedent basis in the claims. In particular, the following passages lack or have vague antecedent basis:
  - (i) "the user authorization database": claim 8, lines 1-2
  - (ii) "the one or more input means": claim 26, lines 1-2
  - (iii) Claim 27 incorporates the deficiencies of claim 26, through dependency, and is also rejected.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1, 3-8, 12-14, 16-17, 19-24, 28, 30-31, and 33 are rejected under 35 U.S.C. 102(a) as being anticipated by Evans (5,924,074).

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(A) Referring to claim 1, Evans discloses a dynamic remotely accessible medical record system comprising (col. 2, lines 35-38, col. 1, lines 59-66, and abstract, lines 1-2 of Evans):

a multi-level access medical information database containing medical information networked with one or more remote terminals, and optionally with one or more input devices, wherein the multi-level access medical information database is updateable by one or more users on a substantially continuous basis (col. 15, lines 21-22, col. 6, lines 62-64, and abstract, lines 5-11 of Evans).

(B) Referring to claim 3, Evans discloses that the one or more users includes patients, physicians, nurses, and medical staff (col. 2, lines 50-53 and col. 15, lines 24-31 of Evans).

(C) Referring to claim 4, Evans discloses that the multilevel access medical information database includes a user authorization protocol (col. 15, lines 21-22 and col. 2, lines 45-47 of Evans).

(D) Referring to claim 5, Evans discloses that the user authorization protocol includes one or more basic levels of access and one or more higher levels of access (col. 15, lines 21-22 of Evans).

(E) Referring to claim 6, Evans discloses that the basic level of access provides a user with only information receiving access (col. 15, lines 21-32 of Evans).

(F) Referring to claim 7, Evans discloses that higher levels of access are permitted to both review the medical information and enter updated medical information (col. 6, lines 44-47 of Evans).

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(G) Referring to claim 8, Evans discloses that the user authorization database comprises two or more datafields for receiving access information (col. 15, lines 21-24 and col. 6, lines 65-67; the Examiner interprets the requirements of an electronic signature and a password to be forms of datafields).

(H) Referring to claim 12, Evans discloses that the remote terminal comprises a data entry device and a data display device (col. 6, lines 62-64 and col. 13, lines 31-36 of Evans).

(I) Referring to claim 13, Evans discloses that the data entry device is a keyboard (col. 6, lines 62-64 of Evans).

(J) Referring to claim 14, Evans discloses that the data display device is a monitor or a printer (col. 13, lines 31-36 of Evans).

(K) Referring to claim 16, Evans discloses that the multi-level access medical information database further includes a translation protocol system (col. 3, lines 42-43 of Evans; the Examiner interprets "converting patient data for transfer" to be a form of "translation").

(L) Referring to claim 17, Evans discloses a dynamic remotely accessible medical record system comprising (col. 2, lines 35-38, col. 1, lines 59-66, and abstract, lines 1-2 of Evans):

a multi-level access medical information databasing means for maintaining medical information, one or more means for remote information display, and optionally one or more means for information input, wherein the multi-level access medical information database means is updateable by one or more users on a substantially

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continuous basis (col. 15, lines 21-22, col. 6, lines 62-64, and abstract, lines 5-11 of Evans).

(M) Claims 19 & 33 repeat the same limitations of claim 3, and are therefore rejected for the same reasons given for those claims.

(N) Claim 20 repeats the same limitations of claim 4, and is therefore rejected for the same reasons given for that claim.

(O) Claim 21 repeats the same limitations of claim 8, and is therefore rejected for the same reasons given for that claim.

(P) Claim 22 repeats the same limitations of claim 5, and is therefore rejected for the same reasons given for that claim.

(Q) Claim 23 repeats the same limitations of claim 6, and is therefore rejected for the same reasons given for that claim.

(R) Claim 24 repeats the same limitations of claim 7, and is therefore rejected for the same reasons given for that claim.

(S) Claim 28 repeats the same limitations of claim 14, and is therefore rejected for the same reasons given for that claim.

(T) Referring to claim 30, Evans discloses that the multi-level access medical information database means further includes a means for translating medical information into a format that is compatible with the multi-level access medical information database means (col. 3, lines 42-43 of Evans).

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(U) Referring to claim 31, Evans discloses a method of dynamically remotely accessing a medical record system, comprising (col. 2, lines 35-38, col. 1, lines 59-66, and abstract, lines 1-2 of Evans):

providing a multi-level access medical information database containing medical information networked with one or more remote terminals, and optionally with one or more input devices, wherein the multi-level access medical information database is updateable by one or more users on a substantially continuous basis (col. 15, lines 21-22, col. 6, lines 62-64, and abstract, lines 5-11 of Evans),

providing a user authorization protocol for restricting access to approved users (col. 2, lines 45-47 of Evans),

logging into the multi-level access medical information database (col. 15, lines 21-24 of Evans),

receiving medical information from the remote terminal (col. 10, lines 42-45 of Evans), and

optionally inputting medical information from the input device (col. 6, lines 44-47 of Evans).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 2, 10-11, 18, and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (5,924,074) as applied to claims 1 and 17 above, and further in view of Peifer (5,987,519).

(A) Referring to claim 2, Evans does not show a home telemedicine terminal networked with the multi-level access medical information database.

Peifer discloses a telemedicine system for communicating data (col. 3, lines 36-44 of Peifer).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Peifer within Evans. The motivation for doing so would have been to obtain data from a patient and send it to a central location (col. 3, lines 40-44 of Peifer).

(B) Referring to claim 10, Evans does not disclose that the one or more input devices are selected from the group consisting of medical devices, audio devices, video devices, and touch-key devices.

Peifer discloses medical instruments and audio and video devices (col. 2, lines 4-13 of Peifer).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Peifer within Evans. The motivation for doing so would have been to send information between the healthcare worker and the patient (col. 2, lines 21-24 of Peifer).

(C) Referring to claim 11, Evans does not disclose that the medical devices include telephonic stethoscopes, EKG devices, rhythm strips, pulse oxymeters, weight sensing



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devices, scale devices, thermometers, spirometers, peak flow meters, blood glucose meters, prothrombine time devices, blood testing devices, and compliance devices.

Peifer discloses that the medical devices can include, but are not limited to, blood pressure devices, thermometers, pulse oxymetry devices, electrocardiograms (EKGs), scales, and stethoscopes (col. 6, lines 37-40 of Peifer).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Peifer within Evans. The motivation for doing so would have been to measure the medical condition of a patient using these instruments (col. 2, lines 4-8 of Peifer).

(D) Claim 18 repeats the same limitations of claim 2, and is therefore rejected for the same reasons given for that claim.

(E) Claims 26-27 repeat the same limitations of claims 10-11, and are therefore rejected for the same reasons given for those claims.

8. Claims 9, 15, 25, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (5,924,074) as applied to claims 1 and 17 above, and further in view of Brown (5,913,310).

(A) Referring to claim 9, Evans does not disclose that the multilevel access medical information database is networked by an intranet system, an extranet system, or combination thereof.

Brown discloses an intranet at the clinician's site (col. 5, lines 37-40 of Brown).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Brown within Evans. The motivation for doing

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so would have been to collect data from a large number of patients (col. 5, lines 32-36 of Brown).

(B) Referring to claim 15, Evans does not disclose that the multi-level access medical information database further includes a patient diary database.

Brown discloses a diary where the patient records his or her personal progress (col. 17, lines 9-11 of Brown).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Brown within Evans. The motivation for doing so would have been to allow the patient to see their progress (col. 17, lines 10-11 of Brown).

(C) Claim 25 repeats the same limitations of claim 9, and is therefore rejected for the same reasons given for that claim.

(D) Claim 29 repeats the same limitations of claim 15, and is therefore rejected for the same reasons given for that claim.

9. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (5,924,074) in view of Brown (5,913,310) as applied to claims 17 and 29 above, and further in view of Peifer (5,987,519).

(A) Claim 32 repeats the same limitations of claim 2, and is therefore rejected for the same reasons given for that claim.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches a web-based method


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and system for maintaining and accessing medical records (US-2003/0158754 A1); a medical care schedule and record aiding system and method (US-6,321,203 B1); a method for production of medical records and other technical documents (US-6,684,188 B1); and a system for monitoring and managing the health care of a patient population (US-6,385,589 B1).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is (703) 305-0260. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (703) 305-9588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Ln  
10-08-04

  
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